IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

BILLY D. WILLIAMS,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, et al.,

Defendants.

No. 2:22-CV-2126-DJC-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's first amended complaint. See ECF No. 23.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a ". . . short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d

1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff's claim and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because Plaintiff must allege with at least some degree of particularity overt acts by specific defendants which support the claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is impossible for the Court to conduct the screening required by law when the allegations are vague and conclusory.

I. BACKGROUND

A. Procedural History

Plaintiff initiated this action with a pro se complaint filed on August 22, 2022. See ECF No. 1. On July 25, 2023, the original complaint was dismissed with leave to amend. See ECF No. 17, pg. 3, 5. After two motions for extension of time were granted by this Court, Plaintiff filed his first amended complaint on December 15, 2023. See ECF No. 23.

B. Plaintiff's Allegations

In the first amended complaint, Plaintiff only names Grant Brooks as a defendant to this action. See id. at 1. Plaintiff alleges that Grant Brooks was the prosecuting attorney in Plaintiff's felony trial and that he holds the title of Deputy District Attorney at the San Joaquin County District Attorney's Office. See id. at 2, 7. The amended complaint appears to state only one claim, but the exact allegations lack coherency. See generally id.

Plaintiff claims that he is being denied equal eligibility for the 2011 Realignment sentencing laws in violation of the Fourteenth Amendment's Due Process Clause. See id. at 3. Plaintiff also alleges that his probation report incorrectly stated that he "had a felony" noted for November 18, 2000, but supposedly this error was corrected in court. See id. at 7.

In 2012, Plaintiff was convicted of "robbery/carjacking," which he claims is classified as a "serious felony" pursuant to Cal. Penal Code § 1192.7. See id. at 3. Plaintiff states that he was denied his pre-sentencing good conduct credits (referencing the Realignment laws) because he was wrongfully classified as a "violent felon" by Defendant Brooks with "ill intent."

See id. at 3, 7. Plaintiff claims that he should not be classified as a § 667.5 violent felon, and that his pre-sentencing good conduct credits were calculated using the wrong formula because of this error. See id. at 3. Plaintiff's attorney at the time allegedly told Plaintiff he would be eligible for relief under Cal. Penal Code § 4019, which could have him serving as little as 50% of his sentence. See id. at 7. However, Plaintiff states that Defendant Brooks sentenced him pursuant to Cal. Penal Code § 2933.1 instead, "according to [his] abstract of judgement [sic]," making Plaintiff serve at least 85% of his sentence. See id. Allegedly, the California Department of Corrections and Rehabilitation (CDCR) "was only going off of [Plaintiff's] abstract of judgment … and that's where the error occurred." See id.

Plaintiff claims that he had to spend 12 years of his life on a maximum level prison yard as a violent felon when he was convicted as a serious felon. See id. at 3. Plaintiff also states that his C-file prison records do not show the code "VIO," which is the notation that is given to violent offenders. See id. at 8.

It is unclear if Plaintiff is challenging the notation of "violent felon" on his record, the actual conviction that he received, or if he's trying to make sure his pre-sentencing good conduct credits were calculated using the proper Cal. Penal Code section. It may be a combination of the above.

II. DISCUSSION

The Court finds that Plaintiff's first amended complaint suffers from the primary defect of failing to state a claim upon which relief can be granted. Specifically, Plaintiff cannot use a suit under 42 U.S.C. § 1983 to assert a claim necessarily implying the invalidity of an underlying criminal conviction or sentence.

When a state prisoner challenges the legality of his custody and the relief he seeks is a determination that he is entitled to an earlier or immediate release, such a challenge is not cognizable under 42 U.S.C. § 1983 and the prisoner's sole federal remedy is a petition for a writ of habeas corpus. See Preiser v. Rodriguez, 411 U.S. 475, 500 (1973); see also Neal v. Shimoda, 131 F.3d 818, 824 (9th Cir. 1997); Trimble v. City of Santa Rosa, 49 F.3d 583, 586 (9th Cir.

1995) (per curiam). Thus, where a § 1983 action seeking monetary damages or declaratory relief alleges constitutional violations which would necessarily imply the invalidity of the prisoner's underlying conviction or sentence, or the result of a prison disciplinary hearing resulting in imposition of a sanction affecting the overall length of confinement, such a claim is not cognizable under § 1983 unless the conviction or sentence has first been invalidated on appeal, by habeas petition, or through some similar proceeding. See Heck v. Humphrey, 512 U.S. 477, 483-84 (1994) (concluding that § 1983 claim not cognizable because allegations were akin to malicious prosecution action which includes as an element a finding that the criminal proceeding was concluded in plaintiff's favor).

Plaintiff's first amended complaint raises claims of trial misconduct, improper sentencing, and incorrect record notations. The crux of the issue is whether Plaintiff's good conduct credits were calculated correctly and, if Plaintiff were to succeed on his claim that they were not correctly calculated, it would necessarily imply entitlement to a shortened prison sentence. There is no indication in the first amended complaint that this allegedly improper sentence calculation has been overturned or otherwise invalidated. As such, Plaintiff's action is barred under Heck. Plaintiff was advised of the applicability of the Heck-bar when the Court addressed Plaintiff's original complaint. The amended complaint does not allege additional facts which would allow this case to proceed.

III. CONCLUSION

Because it does not appear possible that the deficiencies identified herein can be cured by amending the complaint further, Plaintiff is not entitled to leave to amend prior to dismissal of the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc).

Based on the foregoing, the undersigned recommends that this action be dismissed with prejudice for failure to state a claim upon which relief can be granted.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within 14 days after being served with these findings and recommendations, any party may file written

objections with the court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: June 25, 2024

DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE